

FCC MAIL SECTION

FEDERAL COMMUNICATIONS COMMISSION

JUL 27 8 23 PM '00 WASHINGTON, D.C. 20554

July 27, 2000

DISPATCH

IN REPLY REFER TO: 1800B3-JWR

Audrey P. Rasmussen, Esquire
Hall, Estill, Hardwick, Gable, Golden, & Nelson, P.C.
Suite 700
1120 20th Street, N.W., North Building
Washington, D.C. 20036

In re: **Station KBFZ-FM, Kimball, NE**
Facility ID No. 77915
Main Studio Waiver

Dear Ms. Rasmussen:

This letter concerns Tracy Broadcasting Corporation's ("TBC") August 6, 1998 request, as supplemented on November 2, 1998, for a waiver of the Commission's main studio rule, 47 C.F.R. § 73.1125. For the reasons set forth below, the waiver request is denied.

Pursuant to § 73.1125(a), a main studio must be located either (1) within a station's principal community contour, (2) within the contour of any other broadcast station licensed to its community, or (3) within 25 miles of the center of its community. *See Report and Order ("Main Studio R&O"), Review of the Commission's Rules regarding the main studio and local public inspection files of broadcast television and radio stations, 13 FCC Rcd 15,691 (1998), recon. granted in part, FCC 99-138, (released May 28, 1999), 64 Fed. Reg. 35,941 (July 2, 1999).* TBC seeks to relocate the KBFZ(FM) main studio to Scottsbluff, Nebraska. The proposed site is not within the contour of any Kimball station and is approximately 45 miles from that community.

In support of its waiver request, TBC states that service will be provided to Kimball while preserving the efficiency of its other commonly owned broadcast facilities which are co-located at the proposed site. In this regard, TBC states that the location of the KBFZ-FM studio at Scottsbluff will enable it to provide "a better level of service through the use of an existing, well organized staff." TBC states that Scottsbluff "is only" 45 miles from Kimball, and that an existing Scottsbluff studio and staff will provide localized programming to Kimball. TBC states it will continue to provide news coverage of Kimball through its existing Scottsbluff news department, and will offer 24-hour, 7 days a week operation utilizing its consolidated Scottsbluff staff. TBC states it plans to use a toll-free number for Kimball as well as provide inbound cellular calls to the main studio at no charge.

In its supplement, TBC also submits a contour map to demonstrate the proximity of Kimball, Nebraska station KIMB(FM)'s principal city contour to the proposed Scottsbluff studio site,

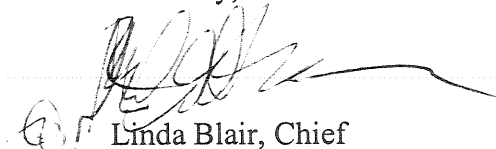
which TBC states is 4 miles. In this regard, TBC states that it is now requesting a waiver "of a mere 4 miles" as opposed to its initial 45 mile waiver request.

TBC has not set forth good cause to justify the requested waiver. The Commission recently revised its main studio rule in the context of Main Studio R&O. Therein it amended § 73.1125 to strike a balance between lessening the burdens on licensees by providing greater flexibility in locating main studios while ensuring reasonable public access to studios. The Commission also adopted clear rules that are easy to administer and maintain. *Id.* At 15,693. As noted by the Commission, it expanded the area in which most licensees may locate their main studios while maintaining a "close connection" to their communities. *Id.* at 15,694. Significantly, the Commission indicated that the revisions should reduce main studio waiver requests. *Id.*

TBC's request is predicated primarily on the benefits of efficiencies, *i.e.*, the use of an existing studio and staff in Scottsbluff. However, TBC cites no precedent for the proposition that a waiver is warranted in order simply to benefit a broadcaster through financial and administrative efficiencies, and we are aware of none. Neither does it reference authority for waiving the rule to permit TBC to locate the studio of the small-market Kimball (1990 Census population 2,574) station in the larger city of Scottsbluff (1990 Census population 13,711) at a location which is both outside the principal community contours of any Kimball station and 45 miles from Kimball itself. To the contrary, grant of its proposal would contravene TBC's obligation under § 307(b) of the Communications Act of 1934, as amended, to maintain the connection between KBFZ-FM and its principal community. *See, e.g., Roberts Communications, Inc.*, 11 FCC Rcd 1138 (1996) (presumed that applicant will serve its designated community if, among other things, its main studio location complies with Section 73.1125). Insofar as the requested waiver will not enhance the public interest but is intended principally to benefit TBC financially, there is no good cause showing for a waiver. *See Maines Broadcasting, Inc.*, 8 FCC Rcd 5501 (1993). *See, also Letter to Eclectic Enterprises, Inc. (KAOD-FM, Babbitt, Minnesota)*, reference 1800B3-JR (Chief, Audio Services Division, July 30, 1999)(denial of request for waiver of § 73.1125 to locate studio of small-market FM station with co-owned station 64 miles away).

In light of the above, and pursuant to 47 C.F.R. § 0.283, the request of Tracy Broadcasting Corporation for a waiver of 47 C.F.R. § 73.1125 IS DENIED. We will withhold action on the pending KBFZ-FM license application (File No. BLH-981014KC) pending submission of an amendment demonstrating compliance with 47 C.F.R. §73.1125.

Sincerely,



Linda Blair, Chief
Audio Services Division
Mass Media Bureau

cc: Tracy Broadcasting Corporation

AUDIO SERVICES

O'CONNOR & HANNAN, L.L.P.
ATTORNEYS AT LAW

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SUITE 800
1919 PENNSYLVANIA AVENUE N.W.
WASHINGTON, D.C. 20006-3483
(202) 887-1400
FAX (202) 466-2198

Audrey P. Rasmussen
Direct Dial (202) 887-1431
Internet: apr@oh-mail.com

August 6, 1998

MINNEAPOLIS OFFICE
708 SOUTH SECOND AVENUE
700 BAKER BUILDING
MINNEAPOLIS, MN 55402
IS (612) 341-3800
FAX (612) 341-1256

MADRID OFFICE
LA RINCONADA 6, 3^a
28023 MADRID, SPAIN
IS (91) 341 575-0944
IS (91) 341 357-2251
FAX (91) 341 577-0759

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AUG 6 - 1998

Linda Blair, Chief
Audio Services Division
Mass Media Bureau
Federal Communication Commission
1919 M Street, N.W., Room 302
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

Re: Mass Media Bureau, Tracy Broadcasting Corporation,
FM Broadcast Station License, FCC File No. BPH 95091
at Kimball, Nebraska, Section 73.1125(b)(2) Request

Dear Ms. Blair:

This letter, on behalf of Tracy Broadcasting Corporation and pursuant to §73.1125(b)(2) of the Commission's Rules, is a request to locate the main studio of the above-referenced FM Broadcast station in Scottsbluff, Nebraska. The principal community contour of this station is over Kimball, Nebraska. Kimball is approximately 45 miles from Scottsbluff.

This request is made on the basis that Tracy Broadcasting Corporation is also the licensee of stations KOAQ(AM); KOLT(AM); KOLT(FM) and KMOR(FM), whose main studios are located in Scottsbluff, Nebraska. Tracy Broadcasting Corporation proposes to utilize the existing studio for the Kimball, Nebraska FM broadcast facility in order to provide a better level of service through the use of an existing, well-organized staff.

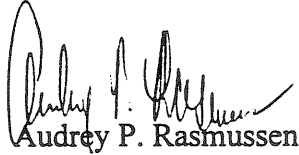
As evidenced by the Commission's amendment of §73.1125(b)(2) in 62 FR 51059, September 30, 1997, the main studio location rule was relaxed in light of changes in technology and the marketplace. The present case is an excellent example of the reasons for the relaxation of the rule: the distance between Kimball and Scottsbluff is only 45 miles; a studio and staff are already existing and able to provide localized programming to Kimball; and Tracy Broadcasting Corporation plans to use an existing toll-free number (1-800-592-5667) for Kimball, as well providing inbound cellular calls to the main studio at no charge (Cellular One on *009 and Aliant Communications on #009) to cover the Kimball area. Tracy Broadcasting Corporation will continue to provide Kimball with local news coverage through its existing, but expanded, news

Linda Blair, Chief
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department in Scottsbluff and will also provide local sports broadcasting, using Scottsbluff staff. Further, Tracy Broadcasting Corporation will be able to offer a 24 hour operation, seven days a week by utilizing a consolidated staff in Scottsbluff. Accordingly, local service will be provided to Kimball, while preserving efficiency in the operation all of the stations. Therefore, Tracy Broadcasting Corporation asks that the Commission grant this request.

Any questions concerning this matter may be directed to this office.

Very truly yours,



Audrey P. Rasmussen

APR:gln

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O'CONNOR & HANNAN, L.L.P.
ATTORNEYS AT LAW

SUITE 800
1919 PENNSYLVANIA AVENUE N.W.
WASHINGTON, D.C. 20006-3483
(202) 887-1400
FAX (202) 466-2198

Audrey P. Rasmussen
Direct Dial (202) 887-1431
Internet Address: apr@oh-mail.com

MINNEAPOLIS OFFICE
705 SOUTH SECOND AVENUE
700 OAKER BUILDING
MINNEAPOLIS, MN 55402
(612) 341-3600
FAX (612) 343-1266

MAJOR OFFICE
LA BANCORNA, S. J.
20025 MADRID, SPAIN
(0111 34) 879-0244
(0111 34) 357-2251
FAX (0111 34) 677-0730

November 2, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Linda Blair, Chief
Audio Services Division
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 302
Washington, D.C. 20554

Re: Mass Media Bureau, Tracy Broadcasting Corporation, FM
Broadcast Station License, FCC File No. BPH-95091 at Kimball,
Nebraska Section 73.1125(b)(2) Request - SUPPLEMENT

Dear Ms. Blair:

This letter, on behalf of Tracy Broadcasting Corporation ("Tracy"), is a supplement to its request filed on August 6, 1998 to locate the main studio of the above-referenced FM broadcast station in Scottsbluff, Nebraska. The principal community contour of this station is over Kimball, Nebraska. Kimball is approximately 45 miles from Scottsbluff.

Pursuant to Report and Order, MM Docket 97-138, FCC No. 98-175, released August 11, 1998 and effective October 30, 1998, Tracy supplements its request to demonstrate that the principal city contour of KIMB(FM) in Kimball, Nebraska falls four miles from its proposed location for its main studio in Scottsbluff, Nebraska. See enclosed contour map.

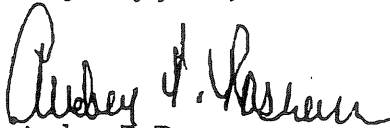
Consequently, Tracy is now requesting a waiver of a mere four miles as opposed to a 45 mile waiver in its original request.

There is a studio and staff already existing in Scottsbluff and is able to provide localized programming to Kimball. Tracy Broadcasting Corporation will also continue to provide Kimball with local news coverage through its existing, but expanded, news department in Scottsbluff. Further Tracy Broadcasting Corporation will be able to offer a 24-hour operation, seven days a week by utilizing a consolidated staff in Scottsbluff. Accordingly, local service will be provided to Kimball, while preserving efficiency in the operation of all of the stations.

Linda Blair, Chief
November 2, 1998
Page 2

Any questions concerning this matter may be directed to this office.

Very truly yours,


Audrey P. Rasmussen

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Enclosure

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